

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 205

## HOUSE BILL 2703

AN ACT

AMENDING SECTIONS 34-455 AND 34-456, ARIZONA REVISED STATUTES; RELATING TO  
THE DEPARTMENT OF ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-455, Arizona Revised Statutes, is amended to  
3 read:

4 34-455. Performance contracting; definition

5 A. The department of administration shall develop and implement a  
6 program to enter into performance contracts solely for the purpose of  
7 achieving energy savings as measured in dollars and benefits ancillary to  
8 that purpose. Each contract may be for a period of not more than fifteen  
9 years. The contract shall provide that the contractor bear all costs  
10 associated with implementation of energy conservation measures to include  
11 audits, design equipment, purchase and installation, metering, interest on  
12 monies borrowed, AND training, and the contract shall include contractor  
13 profit. The contractor shall recover an amount not to exceed the summation  
14 of these costs and the agreed upon profit. Energy dollar savings realized  
15 as a result of a performance contract under this section shall be shared at  
16 a negotiated rate between the state and the contractor, until such time as  
17 the contractor has recovered the amount specified in the contract, at which  
18 time all savings shall accrue to the state. Interest rates charged on each  
19 contract ~~will~~ SHALL be mutually agreed upon by the department of  
20 administration and the contractor. Contracts shall contain contingency  
21 provisions agreed upon by the department and the contractor for cases where  
22 measured energy dollar savings do not meet predicted energy dollar savings.

23 B. For the purposes of this section, "energy dollar savings" means a  
24 reduction in the cost of energy, from a base ENERGY cost established through  
25 a methodology set forth in the contract, utilized in an existing OR NEW state  
26 owned OR LEASED building as a result of either:

27 1. The lease or purchase of operating equipment, improvements, altered  
28 operation and maintenance, or technical services OR RENEWABLE ENERGY SOURCES.

29 2. The increased efficient use of existing energy sources by  
30 cogeneration of heat recovery.

31 Sec. 2. Section 34-456, Arizona Revised Statutes, is amended to read:

32 34-456. Use of energy savings; definitions

33 A. Fifty per cent of the amount of AFTER-CONTRACT cost savings  
34 realized by the department of administration for that year from contracts  
35 entered into pursuant to section 34-455 shall remain available without  
36 further appropriation to undertake additional energy conservation  
37 measures. Funds generated as a result of these contracts shall be known as  
38 "energy conservation funds". THE DEPARTMENT SHALL USE THE ENERGY  
39 CONSERVATION FUNDS TO IMPLEMENT ADDITIONAL ENERGY CONSERVATION MEASURES IN  
40 STATE FACILITIES. The department shall keep a separate accounting of these  
41 AFTER-CONTRACT cost savings and provide an annual report to the speaker of  
42 the house of representatives, the president of the senate and the governor  
43 detailing account balances, amounts spent on additional conservation  
44 measures, energy and dollar savings accrued as a result of expenditures from

1 the fund and projected utilization of the funds. These funds shall not be  
2 subject to the provisions of section 35-190.

3 B. For the purposes of this section, :

4 1. "AFTER-CONTRACT COST SAVINGS" MEANS THE PORTION OF ENERGY DOLLAR  
5 SAVINGS FOR THAT YEAR THAT REMAIN AFTER ALL PERFORMANCE CONTRACT COSTS ARE  
6 PAID FOR THAT YEAR.

7 2. "Energy conservation measures" means measures that are applied to  
8 a state building that improve energy efficiency and are life cycle cost  
9 effective and involve energy conservation, cogeneration facilities, renewable  
10 energy sources, improvements in operations and maintenance efficiencies or  
11 retrofit activities.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.

Passed the House March 15, 2004

Passed the Senate April 29, 2004

by the following vote: 55 Ayes,

by the following vote: 26 Ayes,

0 Nays, 5 Not Voting

0 Nays, 4 Not Voting

Jake Flake  
Speaker of the House

Klu Blumett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3rd day of May, 2004

at 2:21 o'clock P. M.

Jennifer Ybarra  
Secretary to the Governor

Approved this 6 day of

May, 2004,

at 10<sup>10</sup> o'clock A. M.

J. Nye  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6 day of May, 2004,

at 11:09 o'clock A. M.

Janice L. Brown  
Secretary of State